

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

NxGen Allegation Sheet – EMPLOYER/LABOR ORGANIZATION

Case Name: International Business Machines Corp.

Case No.: 16-CA-286968, -
286973, -
286977, -
286988

Board Agent: Phill Melton

Check the appropriate action

Withdrawal Approval	W = Withdrawn no adjustment; A = Adjusted
Advice Issuance	X = Allegation type submitted to Advice
Complaint Issuance	X = Allegation type in Complaint
Deferral Issuance	X = Allegation type deferred
Dismissal Issuance	D = Dismissed no adjustment; A = Adjusted
Settlement Approval	X = Allegation type settled

EMPLOYER:

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8(g):	
	All Allegations

EXHIBIT A

IBM has violated Section 8(a)(1) by maintaining an overbroad confidentiality requirement in its forced arbitration program for separated employees over the age of forty (40) who wish to challenge their employment separation and/or failure to be hired into new positions in the company as age discrimination in violation of the Age Discrimination in Employment Act (ADEA). Employer-imposed confidentiality requirements that restrict workers from communicating with each other and sharing information regarding their claims (and that they discover in the course of investigating their claims), in order to help build their cases of discrimination, are incompatible with the guarantees of Section 7. The Charging Parties allege they were terminated by IBM as part of an unlawful companywide discriminatory scheme to target older workers for adverse employment actions in violation of the ADEA and to replace older workers with younger workers so as to build a younger workforce. IBM has taken the position that the Charging Parties, as well as thousands of similarly situated employees, are prohibited from exercising their Section 7 rights by operation of IBM's confidentiality clause in its arbitration agreement. IBM has suppressed the Charging Parties and others from exercising their Section 7 rights by engaging in oppressive and threatening tactics in litigation and arbitration and overbroad enforcement efforts intended to suppress Section 7 activity that would aid IBM employees in combating IBM's discriminatory scheme.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor St Rm 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928



Download
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December 1, 2021

(b) (6), (b) (7)(C)

Re: International Business Machines Corp.
Case 16-CA-286977

DEAR (b) (6), (b) (7)(C)

The charge that you filed in this case on November 30, 2021 has been docketed as case number 16-CA-286977. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney PHILLIP H. MELTON whose telephone number is (202)273-3834. If this Board agent is not available, you may contact Supervisory Field Attorney ROBERTO PEREZ whose telephone number is (210)417-4075.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson". The signature is fluid and cursive, with a long horizontal stroke at the end.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

cc: SHANNON LISS-RIORDAN, ESQUIRE
LICHTEN & LISS-RIORDAN PC
729 BOYLSTON ST, STE 2000
BOSTON, MA 02116



UNITED STATES GOVERNMENT
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December 1, 2021

GREG MEYER, ESQ., SENIOR COUNSEL –
GLOBAL HUMAN RESOURCES LAW GROUP
INTERNATIONAL BUSINESS MACHINES CORP.
1 ORCHARD RD
ARMONK, NY 10504

Re: International Business Machines Corp.
Case 16-CA-286977

DEAR MR. MEYER:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy L. Watson", written in a cursive style.

TIMOTHY L. WATSON
REGIONAL DIRECTOR

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

and
LICHTEN & LISS-RIORDAN PC

CASE 16-CA-286977

International Business Machines Corp.

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
International Business Machines Corp.


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Daniel Schudroff
MAILING ADDRESS: 666 3rd Avenue
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E-MAIL ADDRESS: Daniel.Schudroff@jacksonlewis.com
OFFICE TELEPHONE NUMBER: 2125454000
CELL PHONE NUMBER: _____ FAX: _____
SIGNATURE: 
DATE: Thursday, December 9, 2021 2:39 PM Central Standard Time
(Please sign in ink.)

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

and
LICHTEN & LISS-RIORDAN PC

CASE 16-CA-286977

International Business Machines Corp.

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
International Business Machines Corp.


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

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☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Jeffrey Schwartz
MAILING ADDRESS: 171 17th Street, NW Suite 1200
Atlanta GA
E-MAIL ADDRESS: Jeffrey.Schwartz@jacksonlewis.com
OFFICE TELEPHONE NUMBER: 4045258200
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(Please sign in ink.)

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LICHTEN & LISS-RIORDAN, P.C.

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Δ ADMITTED IN CALIFORNIA
◊ ADMITTED IN NEW YORK
■ ADMITTED IN PENNSYLVANIA
^ ADMITTED IN NEW JERSEY
♦ ADMITTED IN CONNECTICUT
✧ ADMITTED IN DISTRICT OF COLUMBIA
◻ ADMITTED IN TENNESSEE

Fax Number:

(817) 978-2928

Telephone Number:

To:

Company: NLRB office in Fort Worth

From: Lichten & Liss-Riordan, P.C., (b) (6), (b) (7)(C)

Date: 11/29/2021

Total Pages Including Cover Sheet: 19

Client Name:

Comments:

☐ URGENT☐ FOR REVIEW☐ PLEASE COMMENT☒ PLEASE REPLY

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From: (b) (6), (b) (7)(C)
To: [Melton, Phillip H.](#)
Cc: [Michelle Cassorla](#)
Subject: Region 16 IBM Charges
Date: Friday, January 7, 2022 10:05:04 AM

Good morning,

At this time, we will be withdrawing the following charges in Region 16:

- (b) (6), (b) (7)(C)
- (b) (6), (b) (7)(C)
- (b) (6), (b) (7)(C)
- (b) (6), (b) (7)(C)

We have been in touch with the coordinating region (Region 28), who suggested that it would be a more efficient use of resources (for everyone) for us to withdraw a large number of the charges, as the Board can still issue a complaint that covers all employees nationwide even without all 50 charges that we filed. So we are simply voluntarily withdrawing a large number of these, but about 15-20 will remain on file. No resolution has been reached.

Please let me know if any further action is required to withdraw the charge.

Thank you,

(b) (6), (b) (7)(C)

Lichten & Liss-Riordan, P.C.
729 Boylston St., Suite 2000
Boston, MA 02116
617-994-5800
617-994-5801 (fax)

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 16
819 Taylor Street, Room 8A24
Fort Worth, TX 76102-6107

Agency Website: www.nlrb.gov
Telephone: (817)978-2921
Fax: (817)978-2928

January 12, 2022

MR. JEFFREY A. SCHWARTZ, ATTORNEY
JACKSON LEWIS, PC
171 17TH STREET, NW, SUITE 1200
ATLANTA, GA 30363

Re: International Business Machines Corp.
Case No. 16-CA-286977

DEAR MR. SCHWARTZ:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

TIMOTHY L. WATSON
REGIONAL DIRECTOR

cc: MR. GREG MEYER, SENIOR COUNSEL
INTERNATIONAL BUSINESS
MACHINES CORP.
GLOBAL HUMAN RESOURCES
LAW GROUP
1 ORCHARD ROAD
ARMONK, NY 10504

(b) (6), (b) (7)(C)

MS. SHANNON LISS-RIORDAN, ATTORNEY
LICHTEN & LISS-RIORDAN PC
729 BOYLSTON STREET, SUITE 2000
BOSTON, MA 02116